

ORIGINAL

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----x
CSC HOLDINGS, INC.,

Plaintiff,

-against-

ROBERT ROOK,

Defendant.
-----x

D+F
C/M
MEMORANDUM & ORDER

05-CV-283 (FB)(AL)

Appearances:

For the Plaintiff:

SHAUN K. HOGAN, ESQ.

Lefkowitz, Louis Sullivan & Hogan LLP

350 Jericho Turnpike, Suite 300

Jericho, NY 11753

BLOCK, District Judge:

On July 22, 2005, Magistrate Judge Lindsay issued a Report and Recommendation ("R & R") vacating the default. The R & R stated that "[a]ny objections to the [R & R] must be filed . . . within ten days of service[.]" and that "[f]ailure to file objections within this period waives the right to appeal the District Court's Order." *See R & R*, at 2; *see also* 28 U.S.C. § 636(b)(1). None of the parties has objected to the R & R.

If clear notice has been given of the consequences of failure to object, and there are no objections, the Court may adopt the R & R without *de novo* review. *See Thomas v. Arn*, 474 U.S. 140, 149-50 (1985); *Mario v. P & C Food Mkts., Inc.*, 313 F.3d 758, 766 (2d Cir. 2002) ("Where parties receive clear notice of the consequences, failure timely to object to a magistrate's report and recommendation operates as a waiver of further judicial review

of the magistrate's decision."'). Plaintiff served a copy of the R & R on the defendant on July 26, 2005, via first class mail, thereby providing the defendant with notice of the R&R and informing him of his right to object and the consequences of not so doing. *See* Letter from Michael G. McAlvin (Aug. 4, 2005).

The Court will excuse the failure to object and conduct *de novo* review if it appears that the magistrate judge may have committed plain error in ruling against the defaulting party. *See Spence v. Superintendent, Great Meadow Corr. Facility*, 219 F.3d 162, 174 (2d Cir. 2000). Here, nothing on the face of the R & R suggests plain error. Accordingly, the Court adopts the R & R without *de novo* review.

SO ORDERED.

/s/

FREDERIC BLOCK
United States District Judge

Brooklyn, New York
September 28, 2005